

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SHANE T. LANCOUR,

Plaintiff,

v.

CITY OF LA CROSSE, *et al.*,

Defendants.

ORDER

15-cv-105-wmc

The court's Opinion and Order in this case dated July 16, 2015, (dkt. #12), contains a misstatement of the law applicable to plaintiff Shane Lancour's Fourth Amendment excessive force claim. The last sentence of the first paragraph on page 3 incorrectly states that "Lancour should be aware, however, that to be successful on this claim, he will have to prove that defendant used force maliciously and sadistically to cause him harm." That sentence describes the requirements under the Eighth Amendment for proving an excessive force claim brought by an incarcerated person. *Whitley v. Albers*, 475 U.S. 312, 320 (1986.) As Lancour's claim falls under the Fourth Amendment, he does not have to prove that defendant Parshall acted maliciously and sadistically for the purpose of causing him harm. The last sentence of the first paragraph of page 3 should state, instead, that "Lancour should be aware, however, that to be successful on this claim, he will have to prove that defendant Parshall used more force than was reasonable necessary under the totality of the circumstances." *Graham v. Connor*, 490 U.S. 386, 395 (1989). In all other respects, the July 16 order remains unchanged.

Entered this 21st day of July, 2015.

BY THE COURT:

/s/

WILLIAM M. CONLEY

District Judge